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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Western Sahara

Working paper prepared by the Secretariat

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I. Report and good offices of the Secretary-General

1. Pursuant to General Assembly resolution 56/69 on the question of Western Sahara, adopted on 10 December 2001, the Secretary-General submitted to the General Assembly at its fifty-seventh session a report on the question of Western Sahara dated 11 July 2002 (A/57/206). The report covered the period from 1 July 2001 to 30 June 2002 and reviewed the actions taken by the Secretary-General in the exercise of his good offices with the parties concerned.

2. During the period under review, the Secretary-General submitted two reports and one letter to the Security Council on the situation concerning Western Sahara (S/2002/467, S/2003/59 and S/2003/341), pursuant to Security Council resolutions 1394 (2002) of 27 February 2002 and 1429 (2002) of 30 July 2002.

3. On 27 February 2002, the Security Council adopted resolution 1394 (2002), by which it decided to extend the mandate of the United Nations Mission for the Referendum in Western Sahara (MINURSO) until 30 April 2002 and to consider actively the options described in his report, addressing this issue in its programme of work. The resolution also requested the Secretary-General to provide a report on the situation before the end of the mandate period.

4. Pursuant to resolution 1394 (2002) the Secretary-General submitted to the Security Council, on 19 April 2002, a report (S/2002/467) in which he informed the Council that during the reporting period, in anticipation of a decision by the Security Council concerning one of the options submitted for its consideration in his report of 19 February 2002 (S/2002/178), his Personal Envoy, James Baker III, had no direct contact with the parties. Subject to the proviso in paragraph 22 of the report, Mr. Baker would be prepared to resume his activities once the Security Council had taken a decision on how it wished him to proceed with his efforts to assist in finding a solution to the dispute over Western Sahara.

5. The Special Representative, William L. Swing, had continued to maintain regular contacts with the parties, meeting with the Coordinator of the Kingdom of Morocco with MINURSO, Governor Hamid Chabar and the Frente POLISARIO Coordinator with MINURSO, Emhamed Khaddad. During his visits to Algiers and Rabat Mr. Swing met with senior Algerian and Moroccan officials. On 8 April he held talks in Nouakchott with the President of Mauritania, Maaouya Ould Sid' Ahmed Taya, and other senior Mauritanian officials. On 7 March the Special Representative of the Secretary-General visited Rabat, where he met individually with the Ambassadors of the five permanent members of the Security Council and the Ambassador of Spain.

6. On the military side, at a meeting on 21 March, the Frente POLISARIO informed the Special Representative of its decision to lift the restrictions imposed on the freedom of movement of United Nations military observers east of the defensive sandwall (berm) since January 2001. MINURSO was advised that the restrictions would be effectively lifted at the end of April.

7. With regard to the Saharan refugees in the Tindouf camps, UNHCR continued to carry out its mandated responsibilities for the refugees and to coordinate with MINURSO. The food supply situation remained precarious because of continued difficulties in ensuring an adequate supply of balanced food for the refugees. The reduction of humanitarian assistance, in the absence of a durable solution to the

question of Western Sahara, remained a major concern for the refugees and their leadership.

8. Among other developments, on 27 February, President Abdelaziz Bouteflika of Algeria visited the refugee camps in the Tindouf area, where he met with the Frente POLISARIO leadership and attended festivities marking the twenty-sixth anniversary of the "Saharawi Arab Democratic Republic". This was the first reported visit to the refugee camps by an Algerian Head of State since the establishment of the camps in 1976. On 5 and 6 March, King Mohammed VI of Morocco visited the towns of Dakhla and Laayoune in the Territory, accompanied by the Moroccan Cabinet. In Dakhla, King Mohammed VI presided over a meeting of the Council of Ministers, the first time he had ever done so in the Territory. In a televised speech from Laayoune, the King announced the creation of a new agency for the social and economic development of the Territory. The Secretary-General of the Frente POLISARIO, Mohamed Abdelaziz, protested the King's visit in a letter dated 4 March addressed to the President of the Security Council.

9. On 5 March, the Special Representative met in Geneva with senior officials of the International Committee of the Red Cross (ICRC) to discuss the Moroccan prisoners of war and the fate of all those unaccounted for since the beginning of the conflict. At that time, 1,362 prisoners of war continued to be detained by the Frente POLISARIO. Of these, some 916 had been detained for more than 20 years and were the longest-held prisoners of war in the world.

10. The Secretary-General concluded that the humanitarian aspects of the overall situation affecting the question of Western Sahara remained a source of great concern and urged the international community to extend its financial support to enable UNHCR and WFP to meet the humanitarian needs of the refugees. He expressed hope that the Security Council would decide by the end of the mandate period how it wished to proceed with regard to the future of the peace process in Western Sahara, and that it would take action on the mandate of MINURSO. By choosing the option that it considered most likely to help resolve the conflict it would indicate to the parties its determination to continue to look actively for a realistic solution to the conflict that would also contribute to long-term peace, stability and prosperity in the Maghreb region. The Personal Envoy stood ready to undertake the activities that would be required under the option the Security Council would choose in order to steer the parties towards a resolution of their dispute over Western Sahara, provided that the Council did not support any changes to options one, two or three that would require the concurrence of the parties. Such changes, as the Personal Envoy had told the Council on 27 February 2002, would simply encourage a continuation of the conflict and the stalemate.

11. On 30 April, the Security Council adopted resolution 1406 (2002), by which it decided to extend the mandate of MINURSO until 31 July 2002, in order to consider further the report of the Secretary-General of 19 February 2002 (S/2002/178).

12. On 30 July 2002, the Security Council adopted resolution 1429 (2002) by which it decided to extend the mandate of MINURSO until 31 January 2003. The Council continued to support strongly the efforts of the Secretary-General and his Personal Envoy to find a political solution to this long-standing dispute, and invited the Personal Envoy to pursue these efforts taking into account the concerns expressed by the parties. The Council also expressed readiness to consider any approach which provided for self-determination that might be proposed by the

Secretary-General and the Personal Envoy, consulting others with relevant experience as appropriate. The resolution requested the Secretary-General to provide a report on the situation before the end of the mandate period that would contain any further proposal from the Secretary-General and his Personal Envoy together with recommendations pertaining to the most appropriate configuration of MINURSO.

13. Pursuant to resolution 1429 (2002), on 16 January 2003 the Secretary-General submitted a report (S/2003/59) to the Security Council, in which he informed the Council that, from 14 through 17 January 2003, his Personal Envoy was scheduled to visit the region and to meet the officials of the Government of Morocco in Rabat and the leadership of the Frente POLISARIO in Tindouf, as well as officials of the neighbouring States during visits to Algiers and Nouakchott. During that mission, Mr. Baker would present and explain to the parties and neighbouring countries a new proposal for a political solution of the conflict over Western Sahara, which would provide for self-determination as requested by the Security Council in its resolution 1429 (2002).

14. During that period, the Special Representative, William L. Swing, continued his regular contacts with the representatives of the parties and neighbouring States, as well as with MINURSO, in order to keep an open channel of communication and to review periodically the situation on the ground.

15. Among other developments, on 18 June 2002, the Frente POLISARIO announced its decision to release, at the request of a Member State, 100 of the 1,361 prisoners of war it held. On 7 July, ICRC repatriated them to Morocco, along with the eldest of all remaining prisoners, whose release the Frente POLISARIO had decided upon earlier in 2002. This brought the total number of prisoners of war released in 2002 by the Frente POLISARIO to 216, with a total of 1,260 prisoners remaining. While all of the prisoners of war had been detained for more than 10 years after the cessation of active hostilities, in contravention of international humanitarian law, most of the prisoners of war (816) had been detained for more than 20 years.

16. Concluding his report, the Secretary-General recalled that the Security Council and the United Nations had worked diligently for nearly two decades to assist the parties to find a solution to the conflict. The Personal Envoy had dedicated nearly six years to this effort. Every possible option had been presented to the parties aimed at reaching an agreed solution, leaving the responsibility for a positive culmination of these efforts solely to the parties to the conflict. To give the parties time to consider the proposal presented to them by the Personal Envoy, the Secretary-General recommended a technical roll-over of MINURSO's mandate for a period of two months, until 31 March 2003.

17. On 30 January 2003, the Security Council adopted resolution 1463 (2003), by which it decided to extend the mandate of MINURSO until 31 March 2003, in order to give the parties time to consider the proposal presented to them by the Personal Envoy of the Secretary-General. It also requested the Secretary-General to provide a report on the situation by 17 March 2003.

18. Subsequently, the Secretary-General sent a letter dated 19 March 2003 to the President of the Security Council (S/2003/341) in which he referred to the activities of his Personal Envoy pursuant to Security Council resolution 1463 (2003) of 30 January 2003. The Secretary-General pointed out that his Personal Envoy had

presented and explained to the parties a proposal for a political solution of the conflict in Western Sahara entitled "Peace plan for self-determination for the people of Western Sahara". Mr. Baker had submitted his proposal to King Mohammed VI of Morocco on 14 January 2003, to President Abdelaziz Bouteflika of Algeria on 15 January 2003, and to the Secretary-General of the Frente POLISARIO, Mr. Mohamed Abdelaziz, and President Maaouya Ould Sid' Ahmed Taya of Mauritania on 16 January 2003. In order to allow additional time for all the parties and neighbouring countries to submit their replies to the Personal Envoy, and to give him sufficient time to assess their responses to his proposal, the Secretary-General proposed to defer the submission of his report to the Security Council until 19 May 2003. He also proposed a technical extension of the mandate of MINURSO for a further period of two months, until 31 May 2003.

19. The Security Council, by resolution 1469 (2003) of 25 March 2003, took note of the letter of the Secretary-General and voted in favour of extending the mandate of the Mission until 31 May 2003. It also requested the Secretary-General to provide a report on the situation by 19 May 2003, as proposed in his letter to the President of the Security Council of 19 March 2003 (S/2003/341).

II. Consideration by the Security Council

20. The Security Council considered the reports of the Secretary-General (S/2002/467 and S/2003/59).

21. On 27 February 2002, the Security Council, at its 4480th meeting, adopted resolution 1394 (2002), by which the Council decided to extend the mandate of MINURSO until 30 April 2002 and to consider actively the options described in the Secretary-General's report, addressing this issue in its programme of work.

22. On 30 April 2002, the Security Council, at its 4523rd meeting, adopted resolution 1406 (2002), by which the Council decided to extend the mandate of MINURSO until 31 July 2002 in order to consider further the report of the Secretary-General of 19 February 2002 (S/2002/178).

23. On 30 July 2002, the Security Council, at its 4594th meeting, adopted resolution 1429 (2002), in the operative part of which the Council:

> "1. *Continues* to support strongly the efforts of the Secretary-General and his Personal Envoy to find a political solution to this long-standing dispute, invites the Personal Envoy to pursue these efforts taking into account the concerns expressed by the parties and expresses its readiness to consider any approach which provides for self-determination that may be proposed by the Secretary-General and the Personal Envoy, consulting, as appropriate, others with relevant experience;
>
> "2. *Calls upon* all the parties and the States of the region to cooperate fully with the Secretary-General and his Personal Envoy;
>
> "3. *Calls upon* the parties to collaborate with the United Nations High Commissioner for Refugees (UNHCR) in the implementation of confidence-building measures, and urges the international community to provide generous support to UNHCR and the World Food Programme in order to help them overcome the deteriorating food situation among the refugees;

"4. *Calls upon* Morocco and the Polisario Front to continue to cooperate with the efforts of the International Committee of the Red Cross to resolve the problem of the fate of all those unaccounted for since the beginning of the conflict;

"5. *Welcomes* the release of 101 Moroccan prisoners of war, and calls upon the Polisario Front to release without further delay all remaining prisoners of war in compliance with international humanitarian law;

"6. *Decides* to extend MINURSO until 31 January 2003;

"7. *Requests* the Secretary-General to provide a report on the situation before the end of the present mandate that contains any further proposal from the Secretary-General and his Personal Envoy together with recommendations pertaining to the most appropriate configuration of MINURSO;

"8. *Decides* to remain seized of the matter."

24. On 30 January 2003, the Security Council, at its 4698th meeting, adopted resolution 1463 (2003), by which the Council decided to extend the mandate of MINURSO until 31 March 2003 in order to give the parties time to consider the proposal presented to them by the Personal Envoy and requested the Secretary-General to provide a report on the situation by 17 March 2003.

25. On 25 March 2003, the Security Council, at its 4725th meeting, adopted resolution 1469 (2003), by which the Council decided to extend the mandate of MINURSO until 31 May 2003 and requested the Secretary-General to provide a report on the situation by 19 May 2003.

III. Consideration by the General Assembly

26. At the fifty-seventh session of the General Assembly, reference was made to the question of Western Sahara by a number of representatives in their statements during the general debate. During the debate on decolonization items in the Special Political and Decolonization Committee (Fourth Committee), held from 30 September to 4 October 2002, a number of Member States made reference to the question of Western Sahara: Nigeria, South Africa, Republic of Zambia, Cuba, Algeria, Costa Rica (speaking on behalf of the Rio Group), Antigua and Barbuda (on behalf of CARICOM), Venezuela, Papua New Guinea, Burkina Faso, Morocco, Tanzania, Namibia, Gabon, Benin, Egypt, Mozambique, Republic of Guinea, Ethiopia, Angola, Pakistan, Congo, Lesotho and Malawi.

27. At the 4th meeting of the Fourth Committee, on 2 October 2002, the Committee heard the following petitioners: Miguel Mayol i Raynal, Member of the European Parliament; Francisco José Alonso Rodríguez, President, Human Rights League of Spain; Juan Soroeta Liceras, Professor of International Law in Spain; Cristina Navarro Poblet, Lawyer, Spain; Antonio López Ortiz, Secretary, Federación Estatal de Instituciones Solidarias con el Pueblo Saharaui; Felipe Briones Vives, International Association of Jurists for Western Sahara; Claudina Morales Rodríguez, Senator, Spain; Ahmed Boukhari, Frente POLISARIO; Hilt Teuwen, Oxfam Solidarity; Suzanne Scholte, President Defense Forum Foundation; Nina May, Chairperson, The Renaissence Foundation; Dan Stanley, Pastor Manna Church; Frank Ruddy, United States Ambassador; Karen Finkler, speaking on behalf

of Joseph R. Pitts, Member of United States Congress; Gilma Camargo, American Association of Jurists.

28. At its 6th meeting, on 4 October, the Fourth Committee adopted without a vote a draft resolution entitled "Question of Western Sahara" (A/C.4/57/L.2), submitted by the Chairman. After the adoption of the draft resolution, statements in explanation of position were made by the representatives of Saint Lucia, Denmark (on behalf of the European Union), Bulgaria, Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia, Slovenia, Turkey, Iceland, Norway and Morocco (see A/C.4/57/SR.6).

29. On 11 December 2002, the General Assembly, at its 73rd plenary meeting, on the recommendation of the Fourth Committee (see A/57/528, para. 25) adopted resolution 57/135, entitled "Question of Western Sahara", in the operative part of which the Assembly:

"1. *Takes note* of the report of the Secretary-General;[1]

"2. *Commends* the Secretary-General and his Personal Envoy for their outstanding efforts and the two parties for the spirit of cooperation they have shown in the support they provide for those efforts;

"3. *Takes note* of the agreements[2] reached between the Kingdom of Morocco and the Frente Popular para la Liberación de Saguia el-Hamra y de Rio de Oro for the implementation of the settlement plan[3] during their private direct talks under the auspices of James Baker III, the Personal Envoy of the Secretary-General, and urges the parties to implement those agreements fully and in good faith;

"4. *Urges* the two parties to implement faithfully and loyally the Secretary-General's package of measures relating to the identification of voters and the appeals process;

"5. *Reaffirms* the responsibility of the United Nations towards the people of Western Sahara, as provided for in the settlement plan;

"6. *Reiterates its support* for further efforts of the Secretary-General for the organization and supervision by the United Nations, in cooperation with the African Union, of a referendum for self-determination of the people of Western Sahara that is impartial and free of all constraints, in conformity with Security Council resolutions 658 (1990) and 690 (1991), by which the Council approved the settlement plan;

"7. *Notes* the fundamental differences between the parties in implementing the main provisions of the settlement plan;

"8. *Supports* the efforts undertaken by the Secretary-General and his Personal Envoy to reach a political solution to the dispute on Western Sahara which will provide for self-determination for the people of Western Sahara;

"9. *Urges*, in this regard, the two parties to continue their cooperation with the Secretary-General and his Personal Envoy with a view to reaching a mutually acceptable political solution to this dispute;